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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JOSHUA STRONG,
Plaintiff,

vs.

CAROLYN COLVIN,
Commissioner, Social Security
Administration,
Defendant

Case No. 3:12-cv-02046-HZ

Plaintiff's Reply Brief

Plaintiff Joshua Strong (Plaintiff) respectfully submits that Defendant has provided the Court with no basis for overlooking the ALJ's legal errors or the lack of substantial evidence supporting his decision. He reasserts each of the arguments raised in his Opening Brief but limits this Reply Brief to addressing the ALJ's duty to develop the record when the record was inadequate to allow for proper evaluation of the evidence.

Defendant explains that under SSR 96-6p, "[t]he ALJ must obtain a medical opinion on the issue of whether a condition equaled a listing only if 'additional medical evidence is received that in the opinion of the administrative law judge...may change the State agency medical or

psychological consultant's finding that the impairment(s) is not equivalent in severity to any impairment in the Listing of Impairments.'” Social Security Ruling (SSR) 96-6p, 1996 WL 374180, at *4, Def. Br. at 9. In this case, additional medical evidence was received that may change the State agency psychological findings. The additional medical evidence is Plaintiff's school records and intellectual testing. Additionally, the record is inadequate for assessing Plaintiff's adult disability claim because there is no assessment of Plaintiff's adult intellectual testing.

Lastly, Defendant argues that, “the ALJ reasonably concluded that presence of the 2001 IQ scores showed improvement and, thus, would not change the State agency consultant's opinions that Mr. Strong did not meet or equal a listing.” Def. Br. at 9. It is unclear, however, how the State agency consultants could properly assess Listing 12.05C without Plaintiff's educational records and further adult intelligence testing. Thus, the ALJ's finding that the 2001 IQ scores would not change the State agency opinions is not supported by substantial evidence.

Submitted this 19th day of August, 2013.

/s/Merrill Schneider
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiff's Opening Brief was filed with the Clerk of the Court on August 19, 2013, using the CM/ECF system which will send notification of such filing to the following: Adrian L. Brown, and Gerald J. Hill.

/s/ Merrill Schneider
Attorney for Plaintiff